

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
July 22, 2019 at 6:00 P.M.

PLEDGE OF ALLEGIANCE

MEMBERS PRESENT: Jeff Valiant, Chairman; Terry Dayvolt, Doris Horn, Paul Keller, Mike Moesner, Mike Winge, and Jeff Willis.

Also present were Morrie Doll, Attorney, Molly Barnhill, Assistant Director and Kim Kaiser, Staff.

MEMBERS ABSENT: None

MINUTES: Chairman Valiant called for a motion to approve the minutes from the June 24, 2019.

Mike Winge made a motion to approve the minutes from June 24, 2019 as circulated.

The motion was seconded by Mike Moesner and approved unanimously.

Chairman Valiant explained the rules and procedures.

SPECIAL USES:

BZA-V-19-14

APPLICANT: Alvey's Signs by Jill Steinsultz, Business Development

OWNER: Stage One Holdings LLC by John Colbert, President

PREMISES AFFECTED: Property located on the north side of Ruffian Ln approximately 0 feet northwest of the intersection formed by Ruffian Ln. and Citation Dr. Ohio Twp. Lot No. 80C in Triple Crown Estates Replat lots 80 and 81. 8666 *Ruffian Ln*

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for a 5'8" x 10' sign located in a legal drain in a "C-2" Community Commercial Zoning District. (*Advertised in The Standard July 11, 2019*)

Jill Steinsultz, Business Development for Alvey's Signs was present .

Chairman Valiant called for a Staff Report.

Mrs. Barnhill stated we have all of the return receipts except for two: one from Stephen N. Perry and the other one from Theresa Zlock and Susan M. Lis. She said we do have the pay receipts

showing they were mailed correctly. She stated the existing land use is a wine bar. She said the surrounding zoning and land use to the east and west are zoned "C-1" with commercial businesses. She stated to the south is zoned "R-3" and "R-1A" being Triple Crown Estates Subdivision and to the north across SR 66 is zoned "C-4" with Wal-Mart and other commercial businesses. She said there is some A Flood Zone but there is a LOMA from 2018 that does remove the structure. She stated they have an existing drive off Ruffian Lane. She said we do have approval from the Drainage Board for the sign to be located in the Legal Drain. She said the applicant's statement, "Owner, John Colbert, would like to erect a sign in the Legal Drain. This location is in front of his business. Drainage Board requests 25 feet from edge of Legal Drain. Owner has met this requirement." She stated the owner was going to be here tonight but he had an emergency so at the last minute, he gave Jill his Power of Attorney. She stated she has it in her hand and she has money to record it tomorrow but it is not recorded.

Attorney Doll stated that will be fine.

Chairman Valiant asked if there was anything to add to the staff report.

Jill Steinsultz replied no.

Chairman Valiant asked if there were any questions from the Board.

Mrs. Barnhill stated one of the things the Drainage Board asked for was a Hold Harmless to be recorded. She said they have already done that but we did list that as an additional condition.

Mike Winge asked if it was in there.

Mrs. Barnhill stated she has a copy right here.

Terry Dayvolt asked if there was a reason they were setting the sign in drainage easement instead of the parking lot.

Jill Steinsultz replied they want to stay in front of the parking and not get to the side of the lot where a car could cover the sign. She said they want it in front of their business. She stated the sign would be within two feet of the parking lot on that edge.

Terry Dayvolt stated he sees that State Farm and some of the others are in the parking area.

Jill Steinsultz replied that their lots, she believes, don't go beyond the area. She said they are still in the grass the parking lot just moves in just a little bit there.

Terry Dayvolt stated they ran their parking lots all of the way out.

Jill Steinsultz replied right. She said as soon as you put a sign into an area where cars are parking the first thing that happens is a car hits it.

After ascertaining there were no more questions from the Board and no remonstrators for or against Chairman Valiant called for a motion.

I, Mike Winge, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the location of the public drain adjacent to the parking lot and the depth of other signage in the area; this sign will be in line with other signs in that area.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month

period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.

10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.
 - e) Subject to the plot plan on file.
 - f) Subject to a Hold Harmless being recorded for the Warrick County Drainage Board.
 - g.) Subject to the recording of the Power of Attorney, which was brought to the meeting tonight.

The motion was seconded by Doris Horn and unanimously carried.

Mrs. Barnhill said their approval would be ready Wednesday.

ATTORNEY BUSINESS:

None

EXECUTIVE DIRECTOR BUSINESS:

None

Doris Horn made a motion to adjourn the meeting. The motion was seconded by Mike Winge and unanimously carried. The meeting adjourned at 6:10 pm.

Jeff Valiant

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held July 22, 2019.

Molly Barnhill, Assistant Director